

UNITED STATES DISTRICT COURT

Northern District of California

Oakland Division

HILARIO MARTINEZ,

No. C 11-01017 SBA (LB)

Plaintiff,

v.

**ORDER RE: PLAINTIFF'S MOTION
TO COMPEL**

CITY OF PITTSBURG, et al.,

[Re: ECF No. 31]

Defendants.

On December 16, 2011, Plaintiff filed a motion seeking a variety of relief in relation to non-party Javier Ortiz's failure to appear at his noticed deposition. Motion, ECF No. 31. Plaintiff sought, among other things, an order compelling Mr. Ortiz to appear for his deposition. Because a motion to compel attendance at a deposition is a discovery motion, the court denied without prejudice Plaintiff's motion and directed him to comply with the discovery dispute-related procedures that are set forth in the undersigned's standing order. Notice of Referral, ECF No. 35; *see* Order of Reference to Magistrate Judge, ECF No. 27.

Upon reflection (and Plaintiff's request), the court believes that compliance with the standing order should be excepted in this particular instance. As the dispute centers around Mr. Ortiz's unwillingness to accept service of Plaintiff's deposition subpoena and to appear for his noticed deposition, the court agrees with Plaintiff that it makes little sense to require Plaintiff to meet-and-confer with a recalcitrant non-party and to file a joint letter describing, presumably, only Plaintiff's side of the dispute.

1 Accordingly, within three days, Plaintiff may re-file his motion for hearing before the
2 undersigned on March 1, 2012. Briefing on the motion shall proceed in accordance with this
3 District's Civil Local Rule 7-3.

4 **IT IS SO ORDERED.**

5 Dated: January 18, 2011


LAUREL BEELER
United States Magistrate Judge

UNITED STATES DISTRICT COURT
For the Northern District of California